

# Exhibit 1

Declaration of Kyong J. Koh,  
Futures Trading Investigator

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

U.S. COMMODITY FUTURES TRADING  
COMMISSION,

Plaintiff,

v.

DINAR, CORP., INC.;  
MY MONEX, INC., a Nevada Corporation; and  
HUSAM TAYEH

Defendants,

THEODORE S. HUDSON, II; and  
MY MONEX, INC., an Alabama Corporation

Relief Defendants

CIVIL ACTION NO.:

FILED UNDER SEAL

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**DECLARATION OF KYONG J. KOH  
PURSUANT TO 28 U.S.C. 1746**

I, Kyong J. Koh, hereby make the following declaration based upon my personal knowledge:

**I. BACKGROUND**

1. I am a U.S. Commodity Futures Trading Commission's ("Commission") futures trading investigator. I have been asked to review and/or determine:

- a. the corporate status, Commission registration and National Futures Association ("NFA") membership status for: My Monex, Inc., a Nevada corporation ("Monex NV"); Dinar Corp., Inc. (Carson City, NV; Hammond, IN); White Birch Industries, LLC (Carson City, NV); Husam Tayeh, AKA: Husam Al Tayeh Sam Tayeh, and/or Sam Abdullah (Illinois); Theodore S.

Hudson, II (Dothan, AL); and, My Monex, Inc., an Alabama corporation (“Monex AL”).

- b. Dinar Corp., Inc. agreements with its customers per its website <https://www.dinarcorp.com> (the “website”);
- c. the existence of trading accounts in the name or control of Dinar Corp, Inc., Monex NV, Monex AL, White Birch Industries, LLC, and Husam Tayeh;
- d. representations made by Husam Tayeh, individually and through Monex NV and Dinar Corp., Inc. to retail foreign currency (“forex”) customers who sent funds to the Defendants via money orders and/or cashier’s checks;
- e. the total U.S. dollar amount of customer funds sent to Defendants;
- f. deposits, withdrawals, and transfers between bank accounts in the name of Dinar Corp, Inc., Monex NV, White Birch Industries, LLC, Husam Tayeh, Monex AL, and Theodore S. Hudson, II, and the use of the funds.

2. I am over 21 years of age and employed as a futures trading investigator in the Division of Enforcement (“Division”) of the Commission. I have worked as an investigator for the Commission since December 1997. I received a Bachelor of Science degree in Finance from The University of Maryland and a Masters in Business Administration from The Pennsylvania State University.

3. My responsibilities as a Futures Trading Investigator include the investigation of registered and unregistered commodity futures, forex, and options trading firms and individuals located throughout the United States, in order to ensure compliance with and enforcement of the Commodity Exchange Act and the rules and regulations promulgated thereunder. I routinely analyze and review financial records, including but not limited to, trading account statements and bank records.

## II. SUMMARY

4. As discussed in detail below, my analysis and findings include the following:

a. From at least January 2013 through the present (the “relevant period”), Husam Tayeh owned, operated and controlled Dinar Corp, Inc., Monex NV, White Birch Industries, LLC, and other related entities. *See* Exhibit 29, Articles of Incorporation for Dinar Corp., Inc., My Monex, Inc. and White Birch Industries, LLC from Nevada Secretary of State Office.

b. During the relevant period, Husam Tayeh, individually and through Monex NV and Dinar Corp., Inc., operated and continues to operate businesses executing agreements, contact or transactions in forex - mainly Vietnamese Dong and Iraqi Dinar - with retail customers who are not eligible contract participants (“ECPs”) that are leveraged, margined or financed by the Defendants, and that result in actual delivery of forex within periods of not less than fifteen (15) days and as much as one hundred twenty (120) days following the date of the transaction(s). *See* Exhibit 23, Selected pages from [www.dinarcorp.com](http://www.dinarcorp.com); Exhibit 19, Exemplars of Transaction Confirmation Emails from Defendants to Customers.

c. Under the caption “Dinar Corp., Inc., Securing Your Future,” the Defendants, through their website, offer customers transactions in forex utilizing a variety of financing options, which customers can choose by selecting the “Dinarcorp15,” “Dinarcorp 45,” “Dinarcorp60+,” “Dinarcorp90,” or the “Dinarcorp120+Max” options displayed on the website. *Id.*

d. Each of the above payment plans are financed by the Defendants, acting as the counterparty, and none of the payment plans offered to customers result in actual delivery of forex within 2 days of the transaction(s). Instead, retail customers receive their forex

over periods of not less than fifteen (15) days, and up to one hundred twenty (120) days, following the date of the transaction in forex. *Id.*

e. United States banks do not buy nor sell Dinar and there is no indication at the present time that any major United States banks intends to do so in the foreseeable future. *See* Exhibit 25, Bank of America FAQ (“Bank of America, N.A. does not buy or sell Iraqi dinar (IQD) banknotes, and currently has no plans to offer this service in the future.”); Exhibit 26, Wells Fargo Bank Dinar Notice (“Wells Fargo does not sell Iraqi dinar in any location - online, by phone, or in our stores.”)

f. The Iraqi Dinar is valued or “pegged” at a fixed exchange rate versus the U.S. Dollar by the Central Bank of Iraq. The exchange rate to sell Dinars for U.S. Dollars is .000858 Dollars per Dinar or 1166 Dinars per Dollar. The exchange rate to buy Dinars for U.S. Dollars is .000859 Dollars per Dinar or 1164 Dinars per dollar. *See* Exhibit 27, Selected pages from <http://www.cbi.iq/>

g. The Defendants’ offer to sell Dinar to customers over time periods of fifteen (15) days to as much as one hundred twenty (120) days, with the initial payment described as “nonrefundable” and the remaining payments over the time period selected, in an arrangement the Defendants describe as a “Layaway Plan”. *See* ). *See* Exhibit 23, Selected pages from [www.dinarcorp.com](http://www.dinarcorp.com); Exhibit 19, Exemplars of Transaction Confirmation Emails from Defendants to Customers.

h. One such transaction, described in Exhibit 19, details a “45 day Layaway Plan,” in which the customer paid \$1,100 USD for one million Dinar, paid five percent (5%) initially as a “nonrefundable” payments, and paid the balance in forty-five (45) days. *Id.* A customer who purchased one million Dinar at the official exchange rate of

1164 Dinars per U.S. Dollar would pay \$859.11 USD. The customer in the transaction described in Exhibit 19 was charged over 22% more than the official exchange rate.

i. Customers enter into transactions in forex with the Defendants by submitting an online account application through the website. *Id.*

j. Once a customer agrees to enter into a transaction in forex with the Defendants, the customer is advised that the Defendants only accept money orders or cashier's checks as payment. Customers are directed to make their funds payable not to Dinar Corp., Inc., but to "My Monex, Inc." *Id.*

k. During the relevant period, customers send in their payments to 120 Sibley Street, Hammond, Indiana, which is the principal place of business of Defendants. *Id.*

l. During the relevant period, Monex NV, Dinar Corp, Inc. and Husam Tayeh accepted more than \$27 million from hundreds of customers to engage in forex transactions involving the Iraqi Dinar and the Vietnamese Dong. *See* Exhibit 2, Declaration of Patricia Gomersall, Futures Trading Investigator.

### **III. RECORDS REVIEWED**

5. I have reviewed the following documents and records and performed the following tasks in connection with the preparation of this declaration:

a. Reviewed state, business, networking, company and corporation website information on the creation, status and relationships of Husam Tayeh and Theodore S. Hudson, II, and their companies, Dinar Corp., Inc., Monex NV, Monex AL, and White Birch Industries, LLC.

b. Reviewed registration records provided by the NFA for Husam Tayeh and Theodore S. Hudson, II, and their companies, Dinar Corp., Inc., Monex NV, and Monex

AL. *See* Exhibit 24, National Futures Association Certificates of Non-Registration for Defendants.

c. Sent, pursuant to Section 4g of the Commodity Exchange Act, 7 U.S.C. § 6g (2012), on June 27, 2014 and October 3, 2014, document production demands to future commission merchants (“FCMs”) registered with the Commission. The Section 4g demands required the FCMs to provide records related to trading information in their possession for: Monex NV, Monex AL, ; Husam Tayeh AKA: Husam Al Tayeh, Sam Tayeh, Sam Abdullah (Illinois); Dinar Corp., Inc. (Carson City, NV; Hammond, IN); White Birch Industries, LLC (Carson City, NV); and, Theodore S. Hudson, II (Dothan, AL). There were no positive responses.

d. Reviewed pleadings and filings in *Five Star Credit Union vs. Theodore Hudson, Starla Hudson, My Monex, Inc., an Alabama Corporation, My Monex, Inc., a Nevada Corporation, and Husam Tayeh* in the Circuit Court of Houston County, Alabama, Case No.: 38 CV-2014-900007.00. *See* Exhibit 20.

e. Reviewed Cease and Desist Order provided by the State of Illinois in connection with their investigations of Dinar Corp., Inc. issued July 2012. *See* Exhibit 22.

f. Reviewed Cease and Desist Order provided by the State of Texas in connection with their investigations of Dinar Corp., Inc. issued June 2014. *See* Exhibit 21.

g. Reviewed the Dinar Corp., Inc. website. *See* Exhibit 23.

h. Reviewed Five Star Credit Union (“Five Star”) account documents and transactions in the names of Theodore S. Hudson, II DBA Monex AL, account ending in #2862, for the period of November 25, 2013 through February 24, 2014, produced by Five Star pursuant to an investigative subpoena issued by the Commission. *See* Exhibit 4.

i. Reviewed Army Aviation Center Federal Credit Union (“Army Aviation”) account documents and transactions in the names of Monex AL and Theodore S. Hudson II, for the period January 7, 2014 through March 12, 2014, account ending in #4620; produced by the Army Aviation pursuant to an investigative subpoena issued by the Commission. *See* Exhibit 5.

j. Reviewed Wells Fargo Bank (“Wells Fargo”) account documents and transactions in the names of:

- My Monex Inc. (Monex AL) for the period of January 2014 to May 2014, account ending in #7738;
- My Monex Inc. (Monex AL), for the period of April 2014 to May 2014, account ending in #0862;
- White Birch Industries, LLC, for the period January 2013 to April 2013, account ending in #6991;
- White Birch Industries, LLC, for the period January 2013 to June 2014, account ending in #3375;

produced by the Wells Fargo pursuant to an investigative subpoena issued by the Commission. *See* Exhibits 6, 7, 11.

k. Reviewed Tyndall Federal Credit Union (“Tyndall”) account documents and transactions in the name of Monex AL for the period of February 2014 to October 2014, account ending in #7186; produced by the Tyndall pursuant to an investigative subpoena issued by the Commission. *See* Exhibit 8.



#### IV. FINDINGS AND ANALYSIS

##### Corporate Status and Relationships Between Individuals and Entities

6. **Dinar Corp., Inc.** is a Nevada entity incorporated by Husam Tayeh in March 2012; its registered agent is listed as Nevada Business Services. Dinar Corp., Inc. lists its official business address as: 1805 N. Carson Street, Suite X, Carson City, NV 89701. *See* Exhibit 29, pp.5-7, Articles of Incorporation, Dinar Corp., Inc. The documents list Husam Tayeh as the President, Secretary, Treasurer, and Director of Dinar Corp, Inc. *Id.* Dinar Corp., Inc. has never been registered with the Commission in any capacity. *See* Exhibit 24, pp.10-13, NFA Certification of Non-Registration.

7. **My Monex, Inc.** (NV) is a Nevada entity incorporated by Husam Tayeh in September 2012; its registered agent is listed as Nevada Business Services. Monex NV lists its official business address as: 1805 N. Carson Street, Suite X, Carson City, NV 89701. *See* Exhibit 29, pp.39-44, Articles of Incorporation, Monex NV. The documents list Husam Tayeh as the President, Secretary, Treasurer, and Director of Monex NV. *Id.* Monex NV has never been registered with the Commission in any capacity. *See* Exhibit 24, pp.4-5, NFA Certification of Non-Registration.

8. **White Birch Industries, LLC** is a Nevada entity incorporated by Husam Tayeh in January 2013; its registered agent is listed as Business Filings Incorporated. White Birch Industries, LLC lists its official business address as: 1805 N. Carson Street, Suite 460, Carson City, NV 89701. *See* Exhibit 29, pp.66-69, Articles of Incorporation, White Birch Industries, LLC. The documents list Husam Tayeh as the sole managing member of White Birch Industries, LLC. *Id.* White Birch Industries, LLC has never been registered with the Commission in any capacity. *See* Exhibit 24, pp.14-15, NFA Certification of Non-Registration

9. **Husam Tayeh** (aka Husam al Tayeh, Sam Tayeh, Sam Abdullah) is a resident of Chicago, Illinois. Husam Tayeh formed Dinar Corp., Inc., Monex NV, and other related entities, with himself as its sole manager or director. Husam Tayeh has never been registered with the Commission in any capacity. Exhibit 24, pp.8-9, NFA Certification of Non-Registration.

10. **My Monex, Inc.** (AL) is an Alabama entity incorporated by Theodore S. Hudson, II in December 2013; its official business address is listed as Hudson's home address: 303 Whatley Drive, Dothan, AL 36303. See Exhibit 30, Articles of Incorporation, Monex AL. Starla Hudson is listed as the registered agent and Hudson lists himself as the Director of Monex AL. *Id.* Monex AL has never been registered with the Commission in any capacity. See Exhibit 24, pp.2-3, NFA Certification of Non-Registration.

11. **Theodore S. Hudson, II** is a resident of Dothan, Alabama. He is the Director of Monex AL. Hudson was never registered with the Commission in any capacity. See Exhibit 24, pp.6-7, NFA Certification of Non-Registration.

12. During the relevant period, Monex NV, Dinar Corp., Inc. and Tayeh maintained a website at <https://www.dinarcorp.com/> that allowed members of the general public to engage in financed retail forex transactions in Iraqi Dinar and Vietnamese Dong. See Exhibit 19, Exemplars of Transaction Confirmation Emails from Defendants to Customers; Exhibit 23, Selected pages from [www.dinarcorp.com](http://www.dinarcorp.com).

13. The transactions are financed by the Monex NV and Dinar Corp., Inc., who are the counterparties to these foreign currency transactions. Furthermore, the transactions described above do not result in actual delivery of the Iraqi Dinar or the Vietnamese Dong within 2 days of the transaction(s). Instead, the buyers receive their currencies over a period ranging from 15 to 120 days of the purchase date. *Id.*

14. Monex NV and Dinar Corp., Inc. solicited prospective and actual customers by representing, through the website, that Dinar Corp., Inc. is a: “Licensed Money Services Business (sic)...fully registered and fully compliant.” *Id.* This is false: Dinar Corp., Inc. is not currently registered with the United States Department of the Treasury, Financial Crimes Enforcement (“FINCEN”) in any capacity. While Monex NV is licensed as a money services business with FINCEN, the name “My Monex, Inc.” is not displayed on the website, and only appears in the transaction confirmation emails from Defendants to customers. Moreover, Defendants fail to advise actual and prospective customers that such registration is only to act as a “check cashing” business. *See* Exhibit 23, Selected pages from *www.dinarcorp.com*; Exhibit 19, Exemplars of Transaction Confirmation Emails from Defendants to Customers.

15. The online account application does not seek any information about prospective customers’ net worth or customers’ business need for foreign currency. *Id.*

16. The online account application does not inquire as to whether a prospective customer is an ECP or about a prospective customer’s savings and investments. *Id.* The online account application does not inquire if a prospective customer has assets in excess of \$5 million. *Id.*

17. Upon information and belief, few, if any, of Dinar Corp, Inc.’s customers were eligible contract participants (“ECPs”).

18. Upon information and belief, few, if any, of the agreements or transactions entered into between Monex NV, Dinar Corp., Inc. and retail customers were in connection with the retail customers’ line of business.

19. For example, I interviewed customer Clifton Kirk, of Abilene, TX, who bought approximately Two Thousand Five Hundred Dollars (\$2,500) worth of Iraqi Dinars from Dinar Corp., Inc. in 2013 and 2014. He paid via money orders made payable to “My Monex, Inc.” and

in return was sent the actual Iraqi Dinars months later, per the terms of the purchase agreement. During the time that Mr. Kirk entered into these forex transactions with Defendants, his total assets were under Five Million Dollars (\$5 million). Furthermore, Mr. Kirk did not enter into these transactions to manage risk associated with some other asset or liability.

20. I also interviewed customer Judy Thompson, of Hilltop Lakes, TX, who bought Vietnamese Dong from Dinar Corp., Inc. in 2013. She paid via money orders made payable to “My Monex, Inc.” and in return was sent the actual Vietnamese Dong months later, per the terms of the purchase agreement. During the time that Mrs. Thompson entered into this forex transaction with Defendants, her total assets were less than Five Million Dollars (\$5 million). Furthermore, Mrs. Thompson did not enter into these transactions to manage risk associated with some other asset or liability.

21. In November 22, 2013, Monex NV and Theodore S. Hudson, II entered into a contract wherein Hudson Global Investments, LLC (owned and operated by Mr. Hudson) would handle the money order and cashier’s check “processing services” for Monex NV. *See Exhibit 20, Five Star Credit Union v. Theodore S. Hudson, II, et al.*, Circuit Court for Houston County, Alabama, Case No.:CV-2014-900007, filing and pleadings. Tayeh signed the agreement as the “manager” of Monex NV; Hudson signed the agreement as the managing member of Hudson Global Investments, LLC. *Id.* Following this agreement, Monex AL was created and operated pursuant to the laws of the State of Alabama by Mr. Hudson on December 9, 2013. Per this agreement, Hudson Global Investments, LLC was to receive five percent (5%) of the total deposits made by Monex NV as a purported “processing fee.” *Id.*

### **State Actions**

22. On July 23, 2012, State of Illinois, Department of Financial and Professional Regulation, Division of Financial Institutions issued a Cease and Desist Order (No. 12CC329)

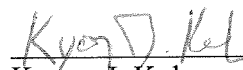
against Dinar Corp, Inc. and its employees. Dinar Corp., Inc. was ordered “to cease and desist from providing money transmission services in the state of Illinois.” *See* Exhibit 22.

23. On June 2, 2014, The State of Texas, Texas Department of Banking issued an Order to Cease and Desist Activity (Order No. 2014-008) against Dinar Corp., Inc. and Husam Tayeh. Dinar Corp., Inc. and Husam Tayeh were ordered “to cease and desist from engaging in the unauthorized business of currency exchange in Texas.” *See* Exhibit 21.

24. Nowhere on the Defendants’ website to they provide notice to actual or prospective customers that the states of Texas and Illinois have issued cease and desist orders against Dinar Corp., Inc. and/or Husam Tayeh , barring them from conducting business in those states due to their failure to comply with those states’ licensing requirements prior to conducting business therein. *See* Exhibit 23, Selected pages from *www.dinarcorp.com*.

I swear and affirm that the foregoing is true and correct based upon my knowledge and belief.

Executed in Washington, D.C. on July 1, 2015.

  
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Kyong J. Koh  
Futures Trading Investigator